

101 FERC ¶ 61, 319
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
William L. Massey, and Nora Mead Brownell.

Midwest Independent Transmission System
Operator, Inc.

Docket Nos. ER02-1420-003
ER02-1420-004
ER02-1420-006

ORDER CONDITIONALLY ACCEPTING AND REJECTING IN PART
RATES FOR FILING,
ESTABLISHING HEARING AND SETTLEMENT JUDGE PROCEDURES,
AND DIRECTING FURTHER COMPLIANCE FILINGS

(Issued December 19, 2002)

I. Introduction

1. Today, the Commission is acting on four interrelated orders which increase the size and scope of the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) and further the development of viable for-profit transmission companies that operate and perform certain functions under Midwest ISO. Today's orders, when fully implemented, will increase Midwest ISO's footprint and allow customers one-stop shopping for service under a single tariff covering Midwest ISO, Southwest Power Pool (SPP), TRANSLink and the GridAmerica Participants.¹

2. This order conditionally accepts for filing the proposed First Revised Volume No. 1 "Resulting Company" Open Access Transmission Tariff (Resulting Company OATT) which Midwest ISO filed in Docket No. ER02-1420-006 pursuant to the Commission's order

¹See also Midwest Independent Transmission System Operator, Inc., 101 FERC ¶ ____ (2002); TRANSLink Development Co. LLC, 101 FERC ¶ ____ (2002); GridAmerica Participants, 101 FERC ¶ ____ (2002). See also Appendix B to this order, which is a map of the Midwest ISO's transmission lines (including TRANSLink, SPP and GridAmerica).

issued May 31, 2002.² Additionally, this order conditionally accepts for filing the proposed Second Revised Agreement of Transmission Facilities Owners to Organize the "Resulting Company," (Resulting Company Agreement) formerly known as the Midwest ISO Resulting Company Agreement filed pursuant to the Merger Rehearing Order.³ This filing reflects a single, consolidated "Resulting Company" OATT governing transmission service provided within the Resulting Company footprint upon the consummation of the business combination between Midwest ISO and the SPP. This order also sets the proposed Resulting Company OATT and Resulting Company Agreement for hearing, but holds the hearing in abeyance and establishes settlement judge procedures in order to facilitate mutual resolution of certain issues among the parties.

3. This order also accepts certain compliance filings submitted in Docket No. ER02-1420-003 by various SPP members stating whether they commit to join Midwest ISO and directs them to provide status reports on their progress toward joining Midwest ISO. The Merger Order also required Midwest ISO to reflect several tariff revisions, and Midwest ISO submitted proposed revisions in a compliance filing in Docket No. ER02-1420-004. Midwest ISO incorporated those same changes in its filing in Docket No. ER02-1420-006. Thus, its compliance filing in Docket No. ER02-1420-004 is subsumed within its filing in Docket No. ER02-1420-006. Accordingly, we will address the proposed changes originally proposed in Docket No. ER02-1420-004 in our consideration of Docket No. ER02-1420-006.

II. Background

4. By order issued on December 20, 2001,⁴ the Commission approved Midwest ISO as an RTO under Order No. 2000.⁵ In the Merger Order, we conditionally accepted two

²Midwest Independent Transmission System Operator, Inc., 99 FERC ¶ 61,250 (Merger Order) (2002), order on reh'g, 101 FERC ¶ 61,044 (2002) (Merger Rehearing Order).

³Midwest Independent Transmission System Operator, Inc., 101 FERC ¶ 61,044 (2002).

⁴Midwest Independent Transmission System Operator, Inc. 97 FERC ¶ 61,326 (2002).

⁵Regional Transmission Organizations, Order No. 2000, 65 Fed. Reg. 809 (January 6, 2000), FERC Statutes and Regulations, Regulation Preambles July 1996-December 2000¶ 31,098 (1999) (Order No. 2000), order on reh'g, Order No. 2000-A, 65 Fed. Reg.

filings related to the proposed consolidation of Midwest ISO and SPP and confirmed that the entity formed by the consolidation would be an RTO. We recognized that the merger would enhance the scope and regional configuration of Midwest ISO. We also directed Midwest ISO to make a series of compliance filings: (a) an application pursuant to section 203 of the Federal Power Act (FPA);⁶ (b) an application pursuant to section 204 of the FPA for approval to assume SPP's \$25 million of senior unsecured debt;⁷ (c) several clarifications and modifications;⁸ and (d) a single, consolidated tariff with SPP.

5. In the Merger Rehearing Order, we dismissed and denied requests for rehearing and reconsideration of the Merger Order and ordered Midwest ISO to file a revised Midwest ISO Agreement (i.e., Resulting Company Agreement) concurrently with the single, consolidated Resulting Company OATT on November 1, 2002. We also directed Midwest ISO to address certain issues of SPP transmission owners concerning the organization of the Resulting Company that Westar Energy, Inc. (Westar) raised in its request for rehearing.

⁵(...continued)

12,088 (March 8, 2000), FERC Statutes and Regulations, Regulations Preambles July 1996-December 2000 ¶ 31,092 (2000) (Order No. 2000-A), aff'd sub nom. Public Utility District No. 1 of Snohomish County, Washington v. FERC, Nos. 00-1174, et al. (D.C. Cir. 2001).

⁶Midwest ISO states that it plans to make its section 203 filing once it has received sufficient indication from the SPP transmission owners as to which ones will join the Resulting Company.

⁷Midwest ISO filed an application for authority to assume the debt, which was approved by letter order issued on October 31, 2002. Midwest Independent Transmission System Operator, Inc., 101 FERC ¶ 62,073 (2002).

⁸Midwest ISO was directed to (1) clarify that current transmission service and revenue distribution under the SPP Tariff and Midwest ISO Tariff would remain intact during the interim period, (2) remove Appendix C-2 from the Midwest ISO Agreement, (3) file a list of grandfathered SPP Agreements, (4) clarify provisions regarding collection of bundled retail rates during the transition period and (5) clarify loss provisions and revise Attachment M of the Midwest ISO Tariff to explain the settlement of losses among multiple Transmission Owners within a control area. Midwest ISO reflected these proposed changes in its July 1, 2002 compliance filing in Docket No. ER02-1420-004, and it has also incorporated them into the proposed Resulting Company OATT and Resulting Company Agreement filed in Docket No. ER02-1420-006.

6. In response to the Commission's orders, Midwest ISO filed the Resulting Company OATT and the Resulting Company Agreement. It requests an effective date of the day immediately following the consummation of the merger between Midwest ISO and SPP. The Resulting Company OATT, including the schedules and attachments filed by Midwest ISO, are based on the Midwest ISO OATT, with certain modifications to incorporate SPP into the Resulting Company OATT.

III. Discussion

A. Docket No. ER02-1420-006 - Proposed Resulting Company OATT and Resulting Company Agreement

1. Notice of Filing and Responsive Pleadings

7. Notice of the filing was published in the Federal Register, 67 Fed. Reg. 69,520 (2002), with motions to intervene or protests due on or before November 20, 2002. Motions to intervene, protests and comments were filed by the entities listed in the Appendix to this order.

8. On December 5, 2002, the Midwest ISO and Consumers Energy Company filed answers that respond to the protests.

2. Commission Determination

a. Procedural Matters

9. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,⁹ the timely, unopposed motions to intervene serve to make those who filed them parties to this proceeding. Given the early stage of this proceeding and the absence of undue prejudice or delay to any party, we will permit the late interventions, protests and comments of AEP, CMTC and Lincoln.

10. Rule 213 of the Commission's Rules of Practice and Procedure,¹⁰ prohibits answers unless otherwise permitted by the decisional authority. We find that good cause exists to permit the answer to be filed because they provide additional information that assists us in the decision-making process.

⁹18 C.F.R. § 385.214 (2002).

¹⁰18 C.F.R. § 385.213 (2002).

11. Some parties request consolidation of this proceeding with other pending proceedings in which certain issues have already been set for hearing. However, as explained below, we find it appropriate to make the resolution of those issues subject to the outcome of the other proceedings. Accordingly, we deny the motions to consolidate.

b. Substantive Matters

Tariff Section 1.64

Proposal

12. Proposed Section 1.64, in pertinent part, defines "Transmission System" to include "facilities, the operational control of which has been transferred to the Transmission Provider." Midwest ISO has removed the phrase "...subject to Commission approval under section 203 of the Federal Power Act." It states that it proposed this change pursuant to stakeholder comments in light of the Atlantic City court remand.¹¹

Comments

13. Westar requests clarification that, in light of Atlantic City, a section 203 filing is not required for a transmission owner to transfer operational control of its facilities to the Resulting Company.

Commission Determination

14. We reject the proposed change to Section 1.64. In an order on the Atlantic City remand being issued concurrently,¹² the Commission reaffirms its view that the withdrawal of a Transmission Owner from the ISO, thus resulting in the transfer of operating control from the ISO back to that transmission owner, is a disposition of facilities necessitating the

¹¹See Atlantic City Electric Co. v. FERC, 295 F.3d 1 (D.C. Cir. 2002).

¹²PJM Interconnection, 101 FERC ¶ ____ (2002) (PJM).

Commission's prior review under section 203 of the FPA. In that order, the Commission also explained the legislative history supporting the Commission's position that section 203 was intended to apply to transfers of operational control. Accordingly, we find, consistent with the Commission's order in PJM, that a transfer by a Transmission Owner¹³ of operational control over its jurisdictional facilities to the Resulting Company or a withdrawal by a transmission owner from the Resulting Company RTO is a disposition of jurisdictional facilities requiring Commission approval under section 203 of the FPA.

Tariff Section 37.3

Proposal

15. Section 37.3(a) contains new language which states that

Transmission Owners taking Network Integration Transmission Service to serve their Bundled Load shall not pay charges pursuant to Schedules 1 through 6 and Schedule 9 and also shall not be responsible for losses from Network Resources located within their Control Areas or pricing zone pursuant to Attachment M. The Transmission Owner, however, shall be responsible for losses under Attachment M for Network Resources located outside of its Control Area or pricing zone that are within or attached to the Transmission System. Notwithstanding the foregoing, the following rules apply in instances in which there are multiple Transmission Owners within a pricing zone or Control Area. Specifically, a Transmission Owner located in a pricing zone or Control Area with one or more other Transmission Owners shall remain obligated to pay for transmission and ancillary services it receives within that pricing zone or Control Area that it does not provide itself unless the transmission and/or ancillary services are provided pursuant to a Grandfathered Agreement.

16. Section 37.3(b)-(e) addresses cost responsibility for Schedule 10 charges for grandfathered agreement loads.

Comments

17. Wolverine asserts that Section 37.3(a) is intended to prevent a Transmission Owner, in instances when services are not provided themselves under a grandfathered agreement, from receiving transmission service, ancillary services and losses without providing

¹³Transmission Owners are members of the Transmission Provider whose facilities (in whole or in part) make up the Transmission System.

appropriate compensation to the other Transmission Owner(s) or Control Area operator actually providing the services. However, Wolverine and East Texas Cooperatives express concern that the provision could be invoked by a host Transmission Owner to avoid sharing revenues with other Transmission Owners within a shared zone.

18. East Texas Cooperatives contend that Section 37.3(b)-(e), which addresses cost responsibility for Schedule 10 charges for grandfathered agreement loads, contains the same language that the Commission rejected in its October 31 Order¹⁴ as being unclear, confusing and inconsistent. They further argue that on November 15, 2002, Midwest ISO submitted a compliance filing in response to the October 31 Order, in which it proposes to remove the unclear language from Section 37.3(b) and remove Section 37.3(e).

Commission Determination

19. As noted by East Texas Cooperatives, Midwest ISO has submitted a compliance filing, which is pending in Docket No. ER98-1438-012, et al., that involves the same provisions at issue in this proceeding. Therefore, we will direct Midwest ISO to amend Section 37 of the Resulting Company OATT to reflect the outcome of the proceeding in Docket No. ER98-1438-012, et al. The questions raised by Wolverine concerning Transmission Owners sharing of revenues within a shared zone has recently been addressed by the Commission. Although when the Commission did not address Wolverine's similar concern in Docket No. ER02-2458-000 because no merger or consolidation had occurred, the Commission did agree that an important issue had been raised.¹⁵ The Commission further agreed that owners should attempt to agree upon protocols for distribution of zonal revenues and that such revenue distribution methodology should minimize cost shifts to enable owners to continue to receive the revenues they would have received absent the formation of the Midwest ISO. Since the proceeding was set for hearing and is presently before a settlement judge, its final outcome might effect the Resulting Company OATT. We will, therefore, direct the Midwest ISO to amend Section 37 of the Resulting Company OATT to also reflect the outcome of Docket No. ER02-2458-000.

Schedule 10 - ISO Cost Recovery Adder

Proposal

¹⁴Midwest Independent Transmission System Operator, Inc., 101 FERC ¶ 61,113 (2002) (October 31 Order).

¹⁵See Midwest Independent Transmission System Operator, Inc., 101 FERC ¶ 61,004 (2002).

20. Schedule 10 provides that the Transmission Provider will recover its costs from Transmission Customers, Transmission Owners and Appendix I entities whose filings have been approved by the Commission.

Comments

21. Arkansas Electric requests clarification that the Midwest ISO Transmission Owner is responsible for payment of Schedule 10 charges for grandfathered agreement loads that are under the Resulting Company OATT.

Commission Determination

22. In the October 31 Order, the Commission stated that all loads (long-term firm, bundled retail and grandfathered agreements) must be included in the divisor of the Cost Adder specified in Schedule 10 of the Resulting Company OATT because all users of the regional grid receive benefits when the grid is operated and planned by a single regional entity. Moreover, the United States Court of Appeals for the District of Columbia Circuit recently granted the Commission's voluntary request for remand of the pending appeals of the decisions in Opinion Nos. 453 and 453-A,¹⁶ to address issues related to the applicability of the Midwest ISO Schedule 10 Cost Adder. Because this issue is also pending in the compliance filing in Docket No. ER98-1438-012, we will make it subject to the outcome of that proceeding.

Attachment K - Congestion Relief

Proposal

23. Attachment K contains congestion relief procedures. According to Midwest ISO, implementation of these procedures will be deferred until the operation of the Resulting Company energy market. On May 8, 2002, Midwest ISO filed proposed revisions to Attachment K to its OATT. However, on September 13, 2002, Midwest ISO filed to defer implementation of Attachment K in its entirety until the Resulting Company energy

¹⁶See Midwest Independent Transmission System Operator, Inc., Opinion No. 453, 97 FERC ¶ 61,033 (2001), order on reh'g, Opinion No. 453-A, 98 FERC ¶ 61,141 (2002).

markets are operative. By letter order issued November 8, 2002,¹⁷ the Commission accepted Midwest ISO's proposal to defer implementation of Attachment K to its OATT until its energy markets are operative. During the interim period, the Resulting Company will implement North American Electric Reliability Council (NERC) Transmission Line Loading Relief (TLR) procedures.

Comments

24. Wisconsin Electric and Arkansas Electric request clarification that Attachment K is in fact deferred. Westar requests removal of all reference to Attachment K from the Tariff, arguing that the provision is widely opposed by market participants, it has been overtaken by the Standard Market Design NOPR¹⁸ and that it was never discussed in the context of the SPP/Midwest ISO consolidation. Duke reserves the right to comment on Attachment K.

Commission Determination

25. In response to Wisconsin Electric and Arkansas Electric, we have approved the deferral of the proposed Attachment K congestion relief procedures. We note that on December 9, 2002, the Midwest ISO filed, in Docket No. ER01-1767-001, revisions to its OATT to defer implementation of Attachment K¹⁹ until energy markets are operative in December 2003. Westar may raise any concerns regarding all references to Attachment K, in that proceeding .

Attachment P - Grandfathered Agreements

Proposal

26. The Merger Order directed Midwest ISO to file a complete list of all grandfathered agreements that would be included in the Resulting Company OATT. Midwest ISO submitted a tentative list in its July 1 compliance filing. Subsequently, it redistributed its

¹⁷See Midwest Independent Transmission System Operator, Inc., 101 FERC ¶ 61,174 (2002).

¹⁸Remedying Undue Discrimination through Open Access Transmission Service and Standard Electricity Market Design, Notice of Proposed Rulemaking, FERC Stats. & Regs. ¶ 32,563 (2002) (Standard Market Design NOPR).

¹⁹In this filing, the Midwest ISO states that it will continue to implement the NERC TLR procedures under Attachment Q of its tariff as its congestion management tool (Application at 2).

proposed list to stakeholders for corrections. It maintains that the list of grandfathered agreements submitted in the instant filing is subject to change based on the decisions of current SPP members. It states that once the membership of the Resulting Company is determined, it will supplement Attachment P in order to include the grandfathered agreements of SPP members who join the Resulting Company.

Comments

27. Several parties argue that not all SPP grandfathered agreements have been included. East Texas Cooperatives have included a listing of omitted agreements.

Commission Determination

28. Midwest ISO has committed to make a supplemental filing to include all grandfathered agreements of SPP members who join the Resulting Company. We will require it to make this compliance filing and to reflect, as appropriate, the agreements identified by East Texas Cooperatives in their comments.

Transitional Arrangements

Comments

29. XES generally supports the proposed merger. However, it would like to see the development of transitional arrangements for SPP members who must receive state authorizations to transfer functional control of their transmission system.

Commission Determination

30. We agree with XES that there will be SPP members who require state authorization to transfer functional control of their transmission systems and encourage Midwest ISO and SPP to assist such SPP members during the transition.

Schedule 1 - Scheduling, System Control and Dispatch Service

Proposal

31. Schedule 1 is based on the current Schedule 1 of the SPP Tariff. This proposed Schedule 1 service is provided at the effective rate for each control area operator that must take scheduling or dispatch action to implement transmission service. Under this approach, scheduling activities are limited to the source and sink control areas regardless of the span of the transmission service which minimizes the total costs of these activities to transmission customers while recognizing and meeting the costs of the control area

operators actually taking scheduling or dispatch action. Prior to implementation, SPP sought and obtained the approval of this regional scheduling practice as an acceptable practice consistent with NERC Policy 3.

32. Midwest ISO states that the current Midwest ISO Schedule 1 provides for a single, system wide rate for service under the schedule at the average cost of the Midwest ISO transmission owners which fails to reflect the fact that the scheduling and dispatch activities necessary to effect transmission service are performed by individual control areas. According to Midwest ISO, the current Midwest ISO Schedule 1 also fails to reflect the fact that for transmission service crossing control area boundaries action by two or more control area operators is necessary to effect this service.

Comments

33. Tenaska notes that Transmission Owners serving Network Load with resources outside its control area avoid an appropriate share of charges under Schedule 1. Wisconsin Electric, the Midwest TDUs, Consumers, IEU-Ohio and DTE Energy argue that the Schedule 1 rates have not been justified. They allege rate pancaking, and Consumers objects to the change from the current single, system-wide rate. Midwest TDUs and Consumers request a hearing.

Commission Determination

34. While we recognize concerns expressed by intervenors, we will accept the proposed Schedule 1 for filing, with the modification discussed below, as a transition mechanism until a more appropriate long-term solution can be developed. We do not believe that it is appropriate for service providers under this schedule to incur costs without reimbursement. However, we agree with Tenaska that all transmission customers, including transmission owners serving native load, should pay an appropriate share of the costs. Therefore, to assure comparability, we will require Midwest ISO to modify Schedule 1 to provide that transmission owners serving bundled load with resources outside its control area pay the applicable Schedule 1 charge.

Schedule 2 - Reactive supply and voltage control from Generation Sources Service

Proposal

35. Schedule 2 has been modified in order to prevent under-compensation for this service. Currently, under their respective OATTs, reactive power from generation sources is assessed on load located in Midwest ISO or SPP. For load located outside of Midwest ISO or SPP, Midwest ISO or SPP charge a weighted average rate.²⁰ Midwest ISO claims that it is being under-compensated for reactive power from generation sources under these methodologies. Therefore, Midwest ISO proposes to revise the methodology for recovering costs associated with providing reactive power from generation sources.

36. Midwest ISO proposes to charge the sum of the reactive rate of the zone where the load is located and the weighted average of the reactive power rates of the zones participating in the transaction (exclusive of the sink zone). The weighting is based on the proportionate Transaction Participation Factor (TPF) impacts of the Transmission Customer's specific transaction on the transmission facilities of the Transmission Owners and Coordinating Owners. For exports, the rate would be a weighted average rate based on the proportionate share of the rates of the zones participating in the transaction.

Comments

37. Calpine argues that Schedule 2 does not allow for a Generator to recover revenues from the sale of ancillary services. Tenaska comments that Transmission Owners serving Network Load avoid paying. Wisconsin Electric, IEU-Ohio, Midwest TDUs, DTE and Consumers protest that Schedule 2 rates have not been supported. Midwest TDUs and Consumers request a hearing.

Commission Determination

38. We find that the Resulting Company has not adequately supported a change in its reactive power from generating sources rate methodology provided for under the Resulting Company OATT. We are concerned that the proposed methodology will facilitate overcollection of reactive power costs.²¹ The old methodology recovered reactive power costs on a license plate rate design basis similar to that used for transmission service. The

²⁰For Midwest ISO, the weighted average is based on the peak load of Transmission Owners and Coordinating Owners. For SPP, the weighted average is based on the MVA capability of the generators relevant to the provision of this service.

²¹Since the provisions of Schedule 2 plainly state that they apply to network service we will not address Tenaska's concern.

Resulting Company proposes a rate methodology for load with the Resulting Company that would be analogous to a license plate design (wherein the pricing zone recovered its revenues) with additional rates to compensate other zones that participate in the transaction. Since the Transmission Customer pays the sink zone a full reactive rate and pays additional rates to other zones, the Resulting Company's proposal appears to constitute rate pancaking. The Resulting Company has not sufficiently explained in this proceeding why the rates for reactive power from generation sources should be treated any differently than the license plate rate design methodology used for transmission service.

39. The Commission wants to ensure that entities providing reactive power from generating sources recover all of their costs; however, we can not accept proposals for pancaked rates. Therefore, we reject the Resulting Company's reactive power service proposal and order the Resulting Company to continue charging its existing rates for reactive power service from generation sources rates which are based on a license plate rate design methodology. The Commission will entertain proposals for reactive power service rate methodologies other than license plate rate design that do not constitute rate pancaking.²²

Article 5, Section I (Withdrawal Notice) of the Transmission Owners Agreement

Proposal

40. This section of the Transmission Owners Agreement (TOA) provides in pertinent part that

a member who is not an Owner may upon submission of a written notice of withdrawal to the President withdraw at any time effective 30 days after receipt of notice. A Member who is also an Owner may commence a withdrawal process upon submission of a written notice to the President. Such withdrawal will not be effective until the earlier of (i) December 31 of the calendar year following the calendar year in which notice is given, nor shall any such notice of withdrawal become effective any earlier than 5 years following the date that the Owner signed this Agreement or (ii) December 31, 2004, or any date that is 12 months from when the notice is given if the Owner is withdrawing its facilities to commit them to the functional control of another FERC approved RTO. Notwithstanding the limitation on withdrawals during the first five years or commencing on December 31, 2004, in the event of a merger, consolidation, reorganization, sale, spin-off, or foreclosure, as a result of which

²²For example, the Resulting Company may propose to include the sink zone in the weighted average so that, on a total basis, the transmission customer is not charge more than one full reactive power rate.

substantially all of an Owner's transmission facilities which are part of the Transmission System are acquired by another entity, that entity shall have the right to withdraw its facilities from the Transmission System of the Company upon providing 30 days's notice. If any withdrawal creates a situation where an Owner's or Owners' transmission system is not physically interconnected with the Transmission System, the Company shall determine if such withdrawal affects the ability of such Owner(s) to continue as an Owner(s) or, independent of any such determination, the Owner may commence to withdrawal its facilities from the Company upon 30 days written notice.

Comments

41. The Midwest TDUs protest these revisions to Article Five contending they would create a "free agent" market for Transmission Owners. The existing Agreement requires that each Transmission Owner commit for an initial term of five years from the date it signs on, and thereafter requires notice of 12-24 months depending on when during the calendar year the notice is given. They argue that the "quick-out rights" would advance parochial interests and would undercut Midwest ISO's ability to achieve the public interest benefits that are supposed to justify eliminating the little competition among parallel transmission paths that once existed, and incurring Midwest ISO's mounting administrative, transaction and transition costs. According to Midwest TDUs, such rights would: (1) weaken Midwest ISO's independence because Midwest ISO would have to accommodate Transmission Owners to prevent them from seceding; (2) hinder efficiency when Midwest ISO's scope is perpetually subject to reduction on short notice; (3) increase the hardware and software requirements needed to support LMP depending on RTO scope; and (4) add uncertainty to transmission and generation construction planning and long-term power-supply transaction decisions. Moreover, Midwest TDUs contend that transmission owners would be compelled to seek the loosest withdrawal terms available to avoid being left holding the bag for debt and other liabilities. According to Midwest TDUs, Midwest ISO is trying to outrace other prospective RTOs in attracting Transmission Owner participation by offering easy withdrawal terms in a "race to the bottom." Several recent arrangements with Midwest ISO, including the pending GridAmerica filing, include "most favored nation" clauses which automatically weaken to the lowest-common-denominator terms obtained by anyone else, including the quick outs being proposed here.

42. The Coalition of Municipal and Cooperative Users of Alliance Companies' Transmission, Lincoln, and CMTC and IEU-Ohio mirror the Midwest TDUs' argument in their protests. Wisconsin Electric also protested that the changes to Article Five would erode membership stability, which may result in increased seams difficulties for border entities.

43. According to Midwest ISO Transmission Owners, Midwest ISO added Article Five at the suggestion of the Transmission Owners to correspond to the right of withdrawal given to American Electric Power System, however, Midwest ISO added an additional clause requiring the withdrawing Owner to join another Commission-approved RTO. The Midwest ISO Transmission Owners believe that the withdrawal rights language should be the same.

Commission Determination

44. We agree with Midwest TDUs that the withdrawal period proposed in the Resulting Company Agreement may adversely impact Midwest ISO's operations. For example, the proposed exit provision may unfairly hinder Midwest ISO's ability to recoup administrative, transaction and transition costs as well as other expenditures being incurred. Moreover, we are concerned that the proposed provision could negatively affect Midwest ISO's efficiency when Midwest ISO's scope is subject to change on short notice. Transmission and generation construction planning and long-term power-supply transaction decisions could be unsettled.

45. In order to promote consistency and stability and to have all transmission owners on the same footing, we will order Midwest ISO to modify Article 5 to track the termination provisions in Midwest ISO's Transmission Owners Agreement which provides for an initial term of five years from the date the transmission owner signs on and thereafter requires notice of 12-24 months, depending on when during the calendar year the notice is given. The notice period for disposition out (*i.e.*, a disposition situation where substantially all of the owner's facilities are transferred to a new owner, and then withdraws the facilities from the Resulting Company) would remain at one year. Lastly, if any withdrawal on these or other grounds isolates facilities of another owner with the Resulting Company's transmission system, the remnant owner (whose facilities are isolated) would have the right to withdraw only with a finding by the Resulting Company that the withdrawal would adversely affect the remnant owner's continuation in the Resulting Company.

46. Further, the Commission continues to exercise control over the transfer of facilities including the transfer of operational control. Consequently, at the same time that notice is given to withdraw facilities, a section 203 application must be filed with the Commission.

Schedules 18 and 19 - Transitional Rate Schedules

Proposal

47. Schedules 18 and 19 are applicable only to those transmission owners participating in the Resulting Company as a result of the Midwest ISO and SPP Tariff convergence. Schedule 18 - Merger Transition Charge (MTC) was designed to collect revenues over a three-year transition period for both SPP and Midwest ISO transmission owners related to

transactions that cross the seam between the Midwest ISO and SPP sub-regions that are currently covered under the separate regional tariffs of Midwest ISO and SPP that will be eliminated with the implementation of a single, consolidated tariff. The rates collected under Schedule 18 will be an additional component to the pricing of base transmission service under the Resulting Company OATT. The MTC will be phased out over a three-year transition period with 100 percent of the target revenue for each applicable transmission owner being collected in year one, approximately 67 percent of the applicable transmission owner's target revenue being collected in year two and approximately 33 percent being collected in year three with a residual true-up in the fourth year.

48. Schedule 19, a Zonal Transition Adjustment (ZTA), provides for the collection of revenues over a three-year transition period for the SPP transmission owners related to revenues for point-to-point transactions under the current SPP Tariff that will be eliminated with the implementation of a single, consolidated tariff.²³ The rates collected under Schedule 19 are an additional component to the pricing of base transmission service. The ZTA is a three-year transitional mechanism with a true-up for the previous year in years two and three and a residual true-up in the fourth year.²⁴

Comments

²³All revenues associated with point-to-point transmission service revenues that cross a zonal boundary, are shared among all SPP members: 50 percent based on power flows and 50 percent based on revenue requirements. Under the Resulting Company OATT, revenues attributable to these transactions will be foregone because a different revenue allocation will be used. The point-to-point revenues collected for transactions serving unbundled wholesale load will stay with the host zone, except those instances in which the point-to-point transmission service is used to serve bundled retail load which will be put into a revenue sharing pot based 50 percent on power flows and 50 percent on revenue requirements. Even though a transmission owner has the option to take point-to-point service, network integration transmission service is more likely to be taken to serve bundled retail load, resulting in most of the revenues staying with the host utility.

²⁴Schedules 18 and 19 require each Transmission Customer taking Network Integration Service or Point-To-Point Transmission Service to compensate the Transmission Provider for MTC and ZTA in the amounts stated in the attached service schedule. They further require that any transmission owner that, as load serving entity, does not take transmission service for all of its load is required to pay an MTC and a ZTA charge as if the owner did take all of its service under the tariff in the amount stated in the attached schedule.

49. Several parties²⁵ argue that Midwest ISO has not supported Schedules 18 and 19. Consumers, Arkansas Electric and Midwest TDUs request that the rates be set for hearing. DTE and Empire protested the rates proposed in Schedule 19 contending there was no justification for the charges being proposed. AEP strongly supports Schedules 18 and 19, because they implement the concept of revenue neutrality.

Commission Determination

50. We have approved the concept of transitional surcharges where de-pancaking would eliminate revenues that had been counted as revenue credits in setting a transmission owner's pre-RTO rates.²⁶ The MTC rate proposed in Schedule 18 would collect revenues over a three-year period from both SPP and Midwest ISO transmission owners related to transactions that cross the seam between the Midwest ISO and SPP sub-regions that are currently covered under separate regional tariffs. We feel this transitional rate is structured similarly to those we have approved in the past. Protestors have primarily commented on the lack of justification for the rates being proposed in the Resulting Company OATT. We find the MTC transitional rate acceptable in principle but agree with the protestors that the rates proposed have not been adequately supported. We will direct Midwest ISO to quantify these rates in the settlement judge procedures established herein.

51. We have approved the concept of a Zonal Transition Adjustment (ZTA) as proposed in Schedule 19 previously²⁷ and find the ZTA being incorporated in the Resulting Company OATT to be similar. However, we agree with protestors that Midwest ISO has not provided adequate support as to the justness and reasonableness of the rates being proposed. We direct Midwest ISO to include the determination of these rates as well in the settlement judge procedures provided for herein.

Loss Methodology

Proposal

²⁵Lincoln, Midwest TDUs, MidAmerican, Consumers, DTE energy, East Texas Cooperatives, Empire, WPSR Companies.

²⁶See Midwest Independent Transmission System Operator, Inc., 98 FERC ¶ 61,076 (2002).

²⁷See Alliance Companies, et al., 99 FERC ¶ 61,105 (2002).

52. The current flow-based approach is based upon the determination of Transaction Participation Factors or TPFs. Both sets of transmission owners have discussed the replacement of the TPF methodology with a flow-based approach based upon Megawatt-Mile Impacts, as is currently used by SPP.

Comments

53. Wisconsin Electric requests clarification that a transmission customer is only responsible for the losses that occur in the zones used by a transaction. Lincoln asks that the resolution of Attachment M be set for hearing. The Midwest TDUs protest that a revised Attachment M would over-collect losses and argue that Midwest ISO has not demonstrated the reasonableness of any proposed loss methodology; Midwest TDUs request that the loss issue be set for hearing. KCP&L and OGE prefer a flow based loss compensation based upon Megawatt-Mile Impacts.

Commission Determination

54. The Midwest ISO and SPP staffs are currently involved in ongoing discussion with the Transmission owners in an effort to arrive at a loss methodology that gains consensus. It is important to develop a loss-methodology which does not impair the operation of a common markets and which fosters an efficient common market, and which avoids seams with neighboring RTOs. With this in mind, we encourage the parties to expedite the process of arriving at a loss compensation methodology.

55. NOPR asked for comments on the use of average losses instead of incremental losses because average losses are simple to implement and don't require a credit to customer's bills. Upon issuance of the SMD final rule, it is possible that neither SPP's MW-mile loss methodology nor Midwest ISO's loss matrix methodology would be utilized. Therefore, a settlement among the parties as to which loss methodology should be used for the Resulting Company could merely constitute an interim measure. Accordingly, we expect the parties to resolve the interim loss methodology in a timely manner in the settlement procedures established herein.

Schedule 13

56. New PJM Companies do not oppose the elimination of Schedule 13 (Super Regional Rate Adjustment (Charge)), but they seek clarification that the elimination will not prejudice future use of the same or a similar mechanism. Our acceptance of Midwest ISO's

proposal to eliminate Schedule 13 in this case is not intended to foreclose future proposals to use similar mechanisms.²⁸

Attachment R

57. Duke and AEP request clarification that Attachment R (Generator Interconnection Procedures and Operating Agreement) would be subject to the outcome of the Commission's Notice of Proposed Rulemaking in Standardization of Generator Interconnection Agreements and Procedures.²⁹ We grant this request for clarification, consistent with our determination in another Midwest ISO proceeding.³⁰

Schedules 14, 16 and 17

58. Several parties argue that Midwest ISO has not provided cost support or justification for the proposed rates in Schedule 14 (Regional Through and Out Rate and Rates for Out and Through Transactions), Schedules 16 and 17 (Financial Transmission Rights Administrative Cost Recovery Adder and Energy Market Support Administrative Service Cost Recovery Adder).³¹ Issues concerning Schedule 14 are being addressed in Docket

²⁸We note that in Docket No. EL02-111-000, Midwest ISO and PJM are addressing the elimination of rate pancaking between their regions.

²⁹FERC Stats. & Regs. ¶ 32,560 (2002).

³⁰See Midwest Independent Transmission System Operator, Inc., 97 FERC ¶ 61,136 at 61,621 (2001).

³¹Midwest ISO Transmission Owners and East Texas Cooperatives argue that Schedules 16 and 17 should be excluded from the Resulting Company OATT as premature, because the same proposed rates are being contested in a pending proceeding in Docket No. ER02-2595-000. OGE and KCPL argue that this proceeding should be consolidated with Docket No. ER02-2595-000 because they involve the same issue. Westar argues that the exit fees are so high as to have the effect of preventing the SPP transmission owners from joining SeTrans once it is operating, which would insulate Midwest ISO from competition with SeTrans.

No. EL02-111-000,³² and issues concerning Schedules 16 and 17 are being addressed in Docket No. ER02-2595-000. Our acceptance of the Midwest ISO OATT is subject to the outcome of those proceedings.

Clarifications

59. Wisconsin Electric requests clarification of several definitions in the Tariff. Midwest ISO Transmission Owners also state that throughout the Resulting Company Agreement, "operation and control" has been changed to "operational control." They believe that the change was inadvertent error, but they maintain that it changes the intended meaning in the agreement, and they request that the Midwest ISO Agreement's language be retained. We direct Midwest ISO to clarify this tariff language in the compliance filing ordered herein.

Article 2

60. Westar opposes the provision in Article 2 of the Resulting Company Agreement which provides that the Tariff will govern in the event of a conflict with the Agreement. It argues that it is unacceptable to permit Midwest ISO to override any provision of the Agreement through a unilateral tariff change.

61. We believe that the Midwest ISO OATT should be the guiding document with respect to all inconsistencies and disputes between the agreements entered into by Midwest ISO, transmission owners, and non-divesting transmission owners, unless specifically explained and supported otherwise. Accordingly, we believe that Article 2 of the Resulting Company Agreement is appropriate.

Most Favored Nations Clause

62. Midwest ISO Transmission Owners argue that Midwest ISO failed to include an agreed-upon "most favored nations" clause in the Resulting Company Agreement. They note that Midwest ISO included such a clause in its Appendix I Agreement with GridAmerica.

63. We believe that requiring such a provision is inappropriate in this agreement and we will not direct Midwest ISO to include such a clause in the Resulting Company Agreement. To allow such a provision, in this context, where there are many entities that are similarly situated, possibly amending and revising agreements with the Commission when the entity

³²See Alliance Companies, et al., 100 FERC ¶ 61,137 (2002).

believes another agreement has a more favorable term, will certainly be an administrative burden, to say the least. We are confident that the transmission entities involved in the Midwest ISO have worked diligently, and continue to work diligently, with the Midwest ISO to obtain fair and equitable agreements applicable to their situations. Given that each participant has joined the Midwest ISO at different times and have different requirements to join the Midwest ISO, we do not believe it is unduly discriminatory to deny the request that a contract is automatically amended as a result of future filings where a contention is made that a superior term has been approved.

Attachment N

64. Arkansas Electric expresses concern that the OATT sections concerning the construction of new facilities is an obstacle to the construction of new transmission facilities. It contends that Attachment N makes the primary driver of the choice of recovery mechanism for construction costs is the Transmission Owner's ability to recover its costs rather than the overcoming of barriers to necessary construction.

65. We reject this argument. We did not direct that Midwest ISO change Attachment N and it is proposing no change to Attachment N. We will, therefore, reject Arkansas Electric's protest as beyond the scope of this proceeding.

Limitation of Liability

66. Tenaska argues that the Tariff's limitation of liability provisions are one-sided and favor only the Transmission Provider and Transmission Owners.

67. In Docket No. ER02-2033-000,³³ the Commission conditionally accepted for filing proposed limitation of liability provisions, subject to further orders, noting that the Commission would conduct a generic, industry-wide examination of the issue. Further, Midwest ISO is proposing no change to its liability provisions. This issue remains subject to further orders in the proceeding in Docket No. ER02-2033-000.

Commission Conclusion – Entirety of Applicants' Proposal

³³ Midwest Independent Transmission System Operator, Inc., 100 FERC ¶ 61,144 (2002) (August 1 Order).

68. Our preliminary review indicates that the Resulting Company OATT and Resulting Company Agreement have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we will accept the proposed rates for filing, suspend them and make them effective subject to refund, and set them for hearing, as ordered below.

69. In West Texas Utilities Company, 18 FERC ¶ 61,189 (1982), we explained that where our preliminary examination indicates that the proposed rates may be unjust and unreasonable, but not substantially excessive, we would generally impose a nominal suspension. Here, our examination suggests that the proposed rates may not yield substantially excessive revenues. Accordingly, we will accept the proposed rates for filing, suspend them for a nominal period, and allow them to become effective, subject to refund and subject to the outcome of Docket Nos. EL02-111-000, ER02-2595-000 and ER98-1438-012, et al., on the date of commencement of service under the Resulting Company OATT, as requested.

70. In order to provide the parties an opportunity to resolve these matters addressed herein among themselves, we will hold the hearing in abeyance and direct settlement judge procedures, pursuant to Rule 603 of the Commission's Rules of Practice and Procedure.³⁴

B. Docket No. ER02-1420-003

1. Compliance Filings

71. Most SPP members submitted compliance filings in response to the Commission's directive in the Merger Order to state whether they intend to join the Resulting Company.³⁵ Several SPP members committed in their compliance filings to join the Resulting Company: (1) KCPL stated in its compliance filing that it intended to make a section 203 filing within 90 days of the compliance filing; (2) XES, on behalf of Southwestern Public Service Company (Southwestern), stated that Southwestern will join Midwest ISO through TRANSLink but that since it has received authorization to transfer control of its facilities to TRANSLink, it does not believe that further section 203 filings are required; (3) Midwest Energy states that its physical operations require it to join the same RTO as

³⁴18 C.F.R. § 385.603 (2002).

³⁵American Electric Power Company (AEP), on behalf of its subsidiaries in SPP, filed in Docket No. ER02-1420-002 that it was unable to make a decision as to which RTO it was going to join. AEP subsequently filed a memorandum of understanding with Midwest ISO in Docket No. ER02-1420-005 to facilitate its decision to join the Resulting Company.

Westar, and it plans to make its section 203 filing to meet its commitment to joining the Resulting Company; (4) OGE will make its section 203 in the fourth quarter of 2002, after performing cost-benefit analyses required by the state commission(s); and (5) Empire stated that it would make its section 203 filing if the merger is consummated. To date, none of these SPP members has made a section 203 filing to join the Resulting Company.

72. Westar stated that it was in the process of evaluating its options and did not commit to join the Resulting Company, because its decision to participate in the Resulting Company may be materially impacted by unresolved issues such as pricing structure, through and out rates, revenue distribution and treatment of congestion management costs prior to adopting locational marginal pricing. East Texas Cooperatives³⁶ stated that it was impossible for them to make a firm commitment to join a particular RTO without knowing where AEP's SPP subsidiaries will eventually go.

2. Notice of Filings and Responsive Pleadings

73. Notice of the filings was published in the Federal Register, 67 Fed. Reg. 46,495 (2002), with motions to intervene and protests due on or before July 24, 2002.³⁷ None were filed.

3. Commission Determination

74. The compliance filings described the SPP members' intentions regarding joining the Midwest ISO, and we accept the compliance filings on that basis. However, in order to update the Commission concerning their progress toward joining Midwest ISO, we direct KCPL, XES, Midwest Energy, ETEC, OGE, Empire, Westar and AEP to file a status report within 30 days of this order concerning their progress toward joining the Resulting Company.

C. Docket No. ER02-1420-004

1. Compliance Filing

75. In compliance with the Merger Order, Midwest ISO filed revisions to the Midwest ISO Transmission Owners Agreement and the Midwest ISO OATT to incorporate SPP members into the Midwest ISO in Docket No. ER02-1420-004. Midwest ISO has filed a

³⁶Of the East Texas Cooperatives, only East Texas Electric Cooperative, Inc. (ETEC) is a jurisdictional public utility.

³⁷Notice dates for certain SPP members were earlier than July 24, 2002.

more recently updated member list in in Docket No. ER02-1420-006. In their motion to intervene filed in Docket No. ER02-1420-006, East Texas Cooperatives filed a further list of member agreements to be grandfathered which Midwest ISO had failed to include in its application in Docket No. ER02-1420-006.

2. Notice of Filing and Responsive Pleadings

76. Notice of the filing was published in the Federal Register, 67 Fed. Reg. 46493 (2002), with motions to intervene and protests due on or before July 18, 2002. A Notice of Intervention was filed by the Arkansas Public Service Commission. Dynegy Power Marketing, Inc. (Dynegy) filed comments and East Texas Electric Cooperative, Inc., Northeast Texas Electric Cooperative, Inc. and Tex-La Electric Cooperative of Texas, Inc. (East Texas Cooperatives) filed a joint protest. The comments and protest argue that the list of grandfathered SPP agreements is incomplete.

3. Commission Determination

a. Procedural Matters

77. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,³⁸ the timely, unopposed motions to intervene serve to make those who filed them parties to this proceeding.

b. Substantive Matters

78. The proposed changes in Docket No. ER02-1420-004 have also been incorporated into the proposed Resulting Company OATT and Resulting Company Agreement filed in Docket No. ER02-1420-006. Accordingly, the disposition of the compliance filing in Docket No. ER02-1420-004 is subject to the outcome of Docket No. ER02-1420-006.

The Commission orders:

(A) The compliance filings of KCPL, XES, Midwest Energy, East Texas Cooperatives, OGE, Empire, Westar and AEP in Docket No. ER02-1420-003 are hereby accepted, as discussed in the body of this order.

³⁸18 C.F.R. ¶ 385.214 (2002).

(B) We hereby direct KCPL, XES, Midwest Energy, ETEC, OGE, Empire, Westar and AEP to file status reports within 30 days of the date of this order concerning their progress toward joining the Resulting Company.

(C) Midwest ISO's filing in Docket No. ER02-1420-006 is conditionally accepted for filing in part, as modified herein, and rejected in part, to become effective, subject to refund, on the date that service commences under the Resulting Company OATT, and subject to the outcome of Docket Nos. ER02-111-000 and ER02-2595-000, as discussed in the body of this order.

(D) Midwest ISO is hereby directed to amend Attachment P - Grandfathered Agreements within 30 days of the date of this order to include the additional agreements included by East Texas Cooperatives.

(E) Pursuant to the authority contained in and subject to the jurisdiction conferred on the Federal Energy Regulatory Commission by Section 402(a) of the Department of Energy Organization Act and the Federal Power Act, particularly sections 205 and 206 thereof and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 C.F.R. Chapter I), a public hearing shall be held concerning the justness and reasonableness of the proposed rates, as discussed in the body of this order. As discussed in the body of the order, we will hold the hearing in abeyance while the parties attempt to settle as discussed in Paragraphs (F) and (G) below.

(F) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.603 (2000), the Chief Administrative law Judge is hereby authorized to appoint a settlement judge within 15 days of the date of this order. To the extent consistent with this order, the designated settlement judge shall have all powers and duties enumerated in Rule 603 and shall convene an initial settlement conference as soon as practicable. If the parties decide to request a specific judge, they must make their request to the Chief Judge in writing or by telephone within five (5) days of the date of this order.

(G) Within sixty (60) days of the date of this order, the settlement judge shall issue a report to the Commission and the Chief Judge on the status of the settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions, if appropriate, or assign this case to a presiding judge for a trial-type evidentiary hearing, if appropriate. If settlement discussions continue, the settlement judge shall issue a report at least every sixty (60) days thereafter, apprising the Commission and the Chief Judge of the parties' progress towards settlement.

(H) If the settlement discussions fails, a presiding administrative law judge, to be selected by the Chief Administrative Law Judge shall convene a prehearing conference in

this proceeding, to be held within approximately 15 days of the date of the settlement judge's report to the Commission and the Chief Judge, in a hearing room of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426. Such conference shall be held for the purpose of establishing a procedural schedule. The presiding judge is authorized to establish procedural dates, and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice; and Procedure.

(I) The Answers of the Midwest ISO and Consumers Energy are hereby permitted.

By the Commission.

(S E A L)

Linwood A. Watson, Jr.,
Deputy Secretary.

APPENDIX

Docket No. ER02-1420-006

I. Timely Motions to Intervene that Do Not Raise Substantive Issues

- Illinois Municipal Electric Agency
- Kansas City, Kansas Board of Public Utilities
- Midwest Energy, Inc.
- Redbud Energy, L.P.
- Reliant Resources, Inc.

II. Timely Pleadings that Raise Substantive Issues³⁹

- Arkansas Electric Cooperative Corporation (Arkansas Electric) - protest
- Calpine Central, L.P. (Calpine) - motion to intervene (includes substantive comments)
- Coalition of Municipal and Cooperative Users of Alliance Companies' Transmission - statement of position
- Consumers Energy Company (Consumers) - protest
- DTE Energy Company, on behalf of itself and its subsidiaries, Detroit Edison Company and International Transmission Company (DTE Energy) - request for clarification and limited protest
- Duke Energy North America, LLC (Duke) - comments
- East Texas Electric Cooperative, Inc., Northeast Texas Electric Cooperative, Inc. and Tex-La Electric Cooperative of Texas, Inc. (East Texas Cooperatives) - protest
- Empire District Electric Company (Empire) - protest
- Kansas City Power & Light Company (KCPL) - protest
- Madison Gas & Electric Company, Missouri Joint Municipal Electric Utility Commission, Missouri River Energy Services, Oklahoma Municipal Power Authority, and Wisconsin Public Power Inc. (Midwest TDUs) - protest and motions
- MidAmerican Energy Company (MidAmerican) - protest
- Midwest ISO Transmission Owners - comments
- New PJM Companies - comments
- Oklahoma Gas & Electric Company (OGE) - protest and request for consolidation
- Tenaska Power Services Co. (Tenaska) - comments
- Westar Energy, Inc. and Kansas Gas and Electric Company (Westar Energy) - protest

³⁹These parties also filed timely motions to intervene in Docket No. ER02-1420-006 or they previously filed motions to intervene in Docket No. ER02-1420.

- Wisconsin Electric Power Company (Wisconsin Electric)- comments
- Wisconsin Public Service Company and Upper Peninsula Power Company (WPSR Operating Companies) - protest
- Wolverine Power Supply Cooperative, Inc. (Wolverine) - protest
- Xcel Energy Services, Inc. (XES) - comments

III. Late Interventions and/or Protests or Comments

- American Electric Power Service Corporation (AEP) - motion to intervene and protest
- Coalition of Midwest Transmission Customers and Industrial Energy Users-Ohio (CMTC) - motion to intervene and protest
- Lincoln Electric System (Lincoln) - comments

